

**RESOLUTION NO. 04-04**

A RESOLUTION OF THE CITY OF TWENTYNINE PALMS  
SUPPORTING ITS PUBLIC ARTS PROGRAM AND ADOPTION  
OF THE PUBLIC ARTS POLICY

**WHEREAS**, the City of Twentynine Palms desires to enhance its identity as an artistic community; and

**WHEREAS**, the City, through its Public Arts Program, will celebrate and expand its vital and rich artistic legacy; and

**WHEREAS**, the City of Twentynine Palms is a beautiful community that offers many benefits to its residents ensuring that with the adoption of its Public Arts Policy the interests and values of the public, the artist and the City are represented; and

**Now, therefore**, the City Council of the City of Twentynine Palms does resolve:

1. The Public Arts Policy is directed towards placing high quality permanent public art in the City and adopts the attached Exhibit "A".
2. The Public Arts Advisory Committee (PAAC) will consist of five Twentynine Palms residents, appointed by the City Council, which shall select, review, and make recommendations on art to the City Council for approval.
- 3 This policy will also provide means for the future disposal of art should it no longer be needed.

**Passed, approved, and adopted** on the 23<sup>rd</sup> day of March 2004.

\_\_\_\_\_  
Glenn A. Freshour, Mayor

Attest:

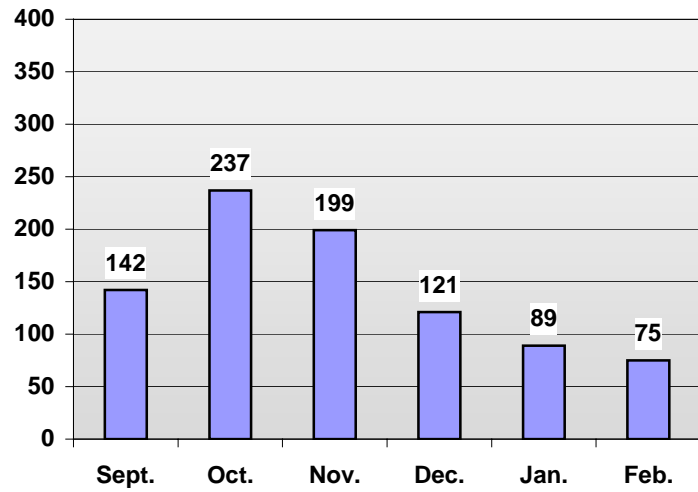
\_\_\_\_\_  
Charlene L. Sherwood, City Clerk

I hereby certify that the foregoing resolution was duly adopted by the City Council of the City of Twentynine Palms at a regular meeting thereof, held on the 23rd day of March, 2004, by the following vote of the Council:

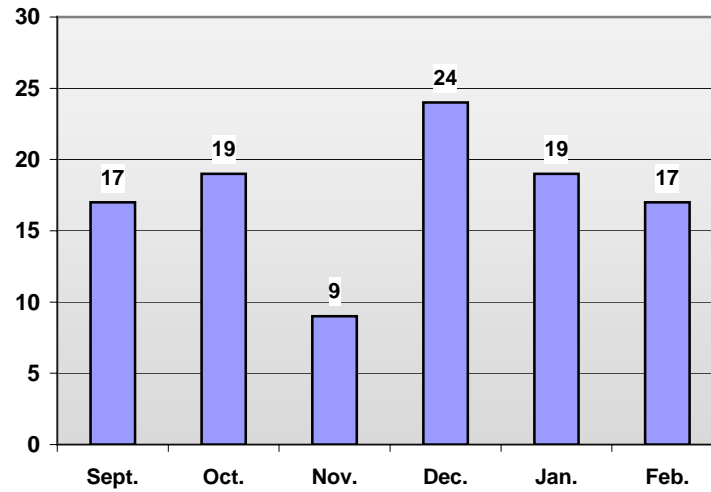
AYES:            COUNCILMEMBERS:  
NOES:            COUNCILMEMBERS:  
ABSENT:        COUNCILMEMBERS:

\_\_\_\_\_  
Charlene L. Sherwood, City Clerk

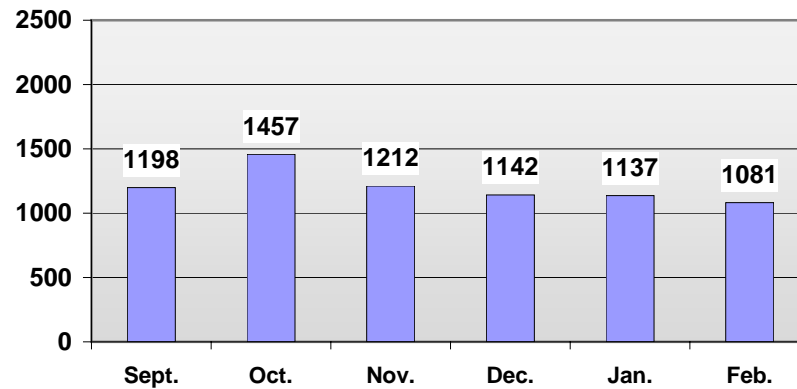
**Twentynine Palms Citations**



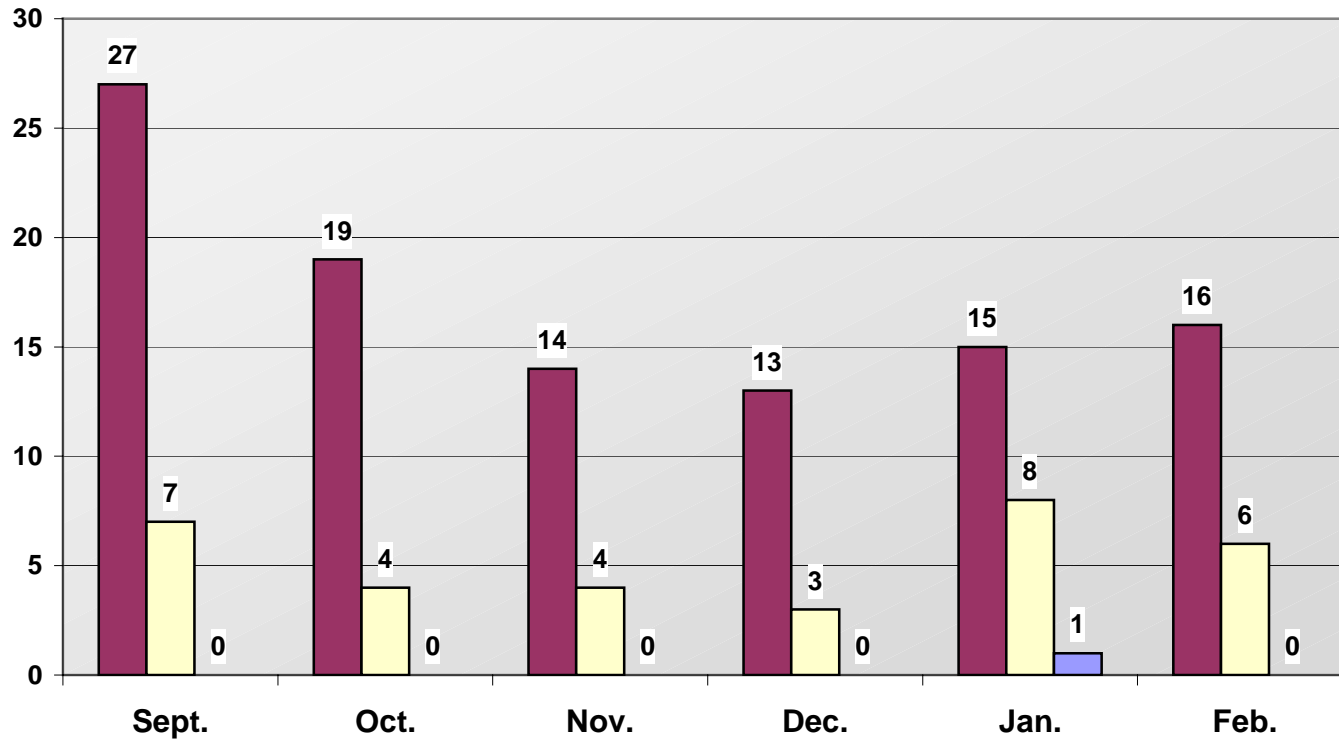
**Twentynine Palms Accidents**



**Twentynine Palms Calls For Service**



**Twentynine Palms  
Sept. 2003 to Feb. 2004**



**Burglaries**      **GTA'S**      **Robberies**

**CITY OF TWENTYNINE PALMS  
POLICE DEPARTMENT  
MONTHLY REPORT TO CITY MANAGER  
FEBRUARY 2004**

**PATROL SUMMARY:**

During the month of February, the City patrol officers responded to 1081 calls for service. We wrote 183 reports and cleared 145 Adult crime cases and 12 Juvenile crime cases by arrest.

We currently have 9.3 patrol officers assigned to the City. Our proactive patrol time for February was 62.82%. Of that, 37.83% was productively used in officer-initiated activity.

**INVESTIGATIONS SUMMARY:**

The City Investigator was assigned 62 new cases this month. In addition to these new cases, there are 24 cases being investigated. In February, 9 case(s) were cleared by arrest, 4 case(s) were cleared by exceptional means, and 31 case(s) were inactivated. There have been 84 year to date cases assigned to the City Investigator.

**TRAFFIC SUMMARY:**

City patrol officers issued 75 traffic citations and arrested 7 people for driving under the influence.

We investigated 17 traffic collisions; of these, 11 involved property damage only and -0- accidents occurred on private property. There were 6 accidents involving injuries and -0- accident(s) with fatalities.

Our enforcement index was 4 : 1 based on a total of 7 DUI's and 18 hazard citations with a total of 6 injury/fatal collisions.

**SPECIAL TRAFFIC OPERATIONS:**

There were no Special Traffic Operations conducted in the City of Twentynine Palms in the month of February.

**MOTORCYCLE ENFORCEMENT TEAM:**

The Off-Highway Vehicle Enforcement Team devoted 8 hours this month to patrol the back roads for safety violations and nuisance complaints.

**SPECIAL OPERATIONS:**

On 02/02/04, Deputies assisted NCIS with an on-going narcotics investigation.

On 02/14/04, Deputies conducted a Saturation Patrol in which 25 contacts were made and 3 subjects were arrested and 8 citations were issued.

**SPECIAL JUVENILE ENFORCEMENT PROJECTS:**

On 02/19/04, a Clean Sweep Operation was conducted consisting of review and citations being issued.

**CITY OF TWENTYNINE PALMS CITIZEN PATROL UNIT:**

The Citizen Patrol Unit volunteered a total of 250 hours; 17 hours in training, 14 hours in administrative duties, 184 hours on patrol, --0- hours in community service, and 35 hours of miscellaneous duties.

**CITY OF TWENTYNINE PALMS  
POLICE DEPARTMENT  
MONTHLY MANAGER'S REPORT**

**STATISTICS FOR FEBRUARY 2004**

	<b>Current Month</b>	<b>Previous Year</b>	<b>%Deviation</b>	<b>Avg. Month</b>	<b>FYTD</b>
<b>PATROL STATISTICS</b>					
<b>CALLS FOR SERVICE</b>	1081	1079	0.19%	1214	9712
<b>REPORTED CRIMES</b>					
Part I	57	53	7.5%	59	472
Part II	126	165	-23.6%	162	1299
Total	183	218	-16.1%	221	1771
<b>CASES CLEARED</b>					
Total	157	104	51.0%	170	1362
Percentage	85.79%	47.71%	79.83%	76.91%	76.91%
<b>CLEARED BY ARREST - ADULT</b>					
Part I	28	20	40.00%	22	178
Part II	117	122	-4.10%	134	1072
<b>CLEARED BY ARREST - JUVENILE</b>					
Part I	4	7	-42.86%	5	36
Part II	8	12	-33.33%	10	76
<b>TRAFFIC STATISTICS</b>					
P.D.O	11	6	83.33%	12	93
Injury	6	2	200.00%	4	32
Fatal	0	0	-100.00%	0	0
Private Property	0	0	0.00%	1	10
TOTAL	17	8	112.50%	17	135
<b>TRAFFIC CITATIONS</b>					
Hazard	18	37	-51.4%	44	351
Non-Hazard	57	105	-45.7%	91	729
TOTAL	75	142	-47.2%	135	1080
<b>D.U.I. ARRESTS</b>	7	10	-30.0%	8	64
<b>RESPONSE TIMES</b>					
	<b>CURRENT YEAR</b>			<b>PREVIOUS YEAR</b>	
Emergency Response	*6.76 MIN			4.98 MIN	
Non-emergency Response	**13.59 MIN			17.26 MIN	
Average Handling Time	36.9 MIN			43.7 MIN	
<b>PROACTIVE PATROL</b>					
	<b>TARGET RANGE</b>			<b>% USED</b>	
	62.82%			35 - 100%	
				37.83%	

\* Responded to 10 calls  
\*\*Responded to 371 calls

**VOLUNTEER HOURS:**           TOTAL:           250



## **STAFF REPORT**

**To:** City Council

**From:** City Manager

**Date:** 03232004

**Subject:** Approval of placement of a Memorial honoring the Twentynine Palms Marines, sailors and others who have given their lives in the service of their Country

**Recommendation:** Council: 1. receive donated Memorial from Action Council and artist Simi Daba for placement in Veteran's Park. 2. Direct staff to work with Action Council, Veteran's groups and others for a dedication by Council on Memorial Day, May 30<sup>th</sup>, 2004.

**Discussion:** Twentynine Palms Action Council and Artist Simi Daba would like to place a memorial sculpture, see attached photograph, in Veteran's Park to honor those Twentynine Palms members of our Armed Services who gave their lives in the service of their country. They are proposing the placement of the memorial at no cost to the City.

The sculpture is elegant and could be a fine addition to the park and its purpose as a place of remembrance for those Veterans who have served the nation and its freedoms.

Council is considering a Public Arts Policy to advise the Council on potential donated art to the City. The Policy requires the appointment of an Arts Committee. Advertisements for the openings and an application period may take beyond the May 30<sup>th</sup> to bring about setting up such a committee. Staff recommends the Council proceed on this Memorial as it is timely to approve this before Memorial Day.

If approved by Council, staff will work with Action Council, Veterans, MCAGCC to arrange a dedication by the City Council on Memorial Day, 2004.

**ORDINANCE NO. 181**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, AMENDING THE TWENTYNINE PALMS MUNICIPAL CODE, ADDING CHAPTER 10.05 REGARDING SEIZURE AND FORFEITURE OF NUISANCE VEHICLES**

**WHEREAS**, the citizens of the City have complained to the San Bernardino County Sheriff's Department of the nuisance conditions created by persons who drive their vehicles into the City and illegally dump weeds, rubbish, garbage, junk, or polluted water;

**WHEREAS**, persons who operate vehicles used to illegally dump weeds, rubbish, garbage, junk, or polluted water bring decay to the neighborhoods where they engage in such activities;

**WHEREAS**, California Government Code § 38771 permits the legislative body of a city to declare what constitutes a nuisance; and

**WHEREAS**, on July 24, 2000, the California Court of Appeal, First Appellate District, Division Three, decided the case of Horton v. City of Oakland, 82 Cal.App.4<sup>th</sup> 580, which specifically held that a city may enact a nuisance abatement program which provides for the seizure and forfeiture of vehicles used by persons while buying or attempting to buy controlled substances;

**WHEREAS**, the case of Horton v. City of Oakland generally held that cities may enact vehicle seizure ordinances where they do not conflict with or preempt state law in the same area;

**WHEREAS**, declaring as nuisances the vehicles of persons who illegally dump weeds, rubbish, garbage, junk, or polluted water, will deter these individuals from using their vehicles to create nuisance conditions if their vehicles are subject to seizure and forfeiture.

**NOW, THEREFORE**, the City Council of the City of Twentynine Palms does ordain as follows:

**SECTION I.** Chapter **10.05** is hereby added to the Twentynine Palms Municipal Code to read as follows:

**CHAPTER 10.05**

**SEIZURE AND FORFEITURE OF NUISANCE VEHICLES**

**Sections:**

<b>10.05.010</b>	<b>Definitions.</b>
<b>10.05.020</b>	<b>Findings, Purpose, Intent; Declaration of Nuisance.</b>
<b>10.05.030</b>	<b>Vesting of Title.</b>
<b>10.05.040</b>	<b>Seizure of Vehicles Subject to Forfeiture; Proceedings.</b>
<b>10.05.050</b>	<b>Seized Vehicles as Evidence.</b>
<b>10.05.060</b>	<b>Return of Seized Vehicles if No Authorization to Hold.</b>
<b>10.05.070</b>	<b>Forfeiture of Vehicles; Procedures.</b>

<b>10.05.080</b>	<b>Innocent Parties; Return of Vehicle.</b>
<b>10.05.090</b>	<b>Claim Procedure.</b>
<b>10.05.100</b>	<b>Forfeiture Hearing.</b>
<b>10.05.110</b>	<b>Forfeiture of Vehicles Determined to be Nuisances.</b>
<b>10.05.120</b>	<b>Alternative Settlement Procedures.</b>
<b>10.05.130</b>	<b>Sale of Vehicles.</b>
<b>10.05.140</b>	<b>Nonexclusive Remedy.</b>

**10.05.010     Definitions.**

As used in this chapter:

- (A) "City" shall mean the City of Twentynine Palms.
- (B) "Department" shall mean the San Bernardino County Sheriff's Department.
- (C) "Weeds," "Rubbish," "Garbage," "Junk" and "Polluted Water" shall be defined as set forth in Chapter 19.92 of the Twentynine Palms Development Code.
- (D) "Owner" shall mean the last registered and legal owner of record of the vehicle that is used to dump garbage, etc.
- (E) "Vehicle" shall mean a vehicle as defined in Cal. Vehicle Code § 670.

**10.05.020     Findings, Purpose, Intent; Declaration of Nuisance.**

(A) The City Council has determined that persons who operate Vehicles and use them to illegally place, deposit, or dump weeds, rubbish, garbage, junk, or polluted water bring decay to local neighborhoods where they dump such matter. The Council has further determined that seizing and forfeiting the Vehicles of persons who come into the local neighborhoods to engage in such activities will deter them from creating said nuisances. The City Council finds there is a need to provide for the abatement of such nuisance Vehicles.

(B) Any Vehicle used to illegally place, deposit, or dump weeds, rubbish, garbage, junk, or polluted water in violation of Chapter 19.92 of the Twentynine Palms Development Code is declared a nuisance, and the Vehicle shall be subject to seizure and forfeiture as provided in this Chapter. Any person or his or her servant, agent, or employee who owns, leases, possesses, conducts, uses or maintains any Vehicle to illegally dump weeds, rubbish, garbage, junk, or polluted water is guilty of a nuisance. Declaration of this nuisance is made according to the authority of Cal. Government Code § 38771.

**10.05.030     Vesting of Title.**

Subject to the requirements of Sections **10.05.040** and **10.05.080**, and except as further limited by this chapter to protect innocent parties who claim an interest in any Vehicle, all right, title, and interest in any Vehicle used to commit any nuisance defined in Section **10.05.020** above shall vest in the City upon commission of the act giving rise to forfeiture.

**10.05.040      Seizure of Vehicles Subject to Forfeiture; Proceedings.**

(A) A Vehicle subject to forfeiture under this chapter may be seized by any peace officer of the City upon process issued by any court having jurisdiction over the Vehicle. Seizure without process may be made if any of the following situations exist:

- (1) The seizure is incident to an arrest or a search under a search warrant;
- (2) There is probable cause to believe that the Vehicle was used or is intended to be used in violation of this chapter; or
- (3) There is probable cause to believe that the Vehicle is directly or indirectly dangerous to the health or safety of persons or property.

(B) The City may notify the Franchise Tax Board of a Vehicle seized where there is reasonable cause to believe that the value of the seized Vehicle exceeds Five Thousand Dollars (\$5,000.00).

(C) Receipts for Vehicles seized pursuant to this chapter shall be delivered to any person out of whose possession such Vehicle was seized, in accordance with Cal. Penal Code § 1412. There shall be a presumption affecting the burden of proof that a person to whom a receipt was issued is the owner thereof. This presumption may, however, be rebutted at the forfeiture hearing specified in Section **10.05.100**.

**10.05.050      Seized Vehicles as Evidence.**

A Vehicle seized pursuant to Section **10.05.040**, where appropriate, may be held for evidence in proceedings against the owner of the Vehicle or the individual who used the Vehicle to commit any nuisance described in this chapter. The City Attorney shall institute and maintain the proceedings.

**10.05.060      Return of Seized Vehicles if No Authorization to Hold.**

Within fifteen (15) days after seizure, if the peace officer does not hold the Vehicle for evidence or if the Department does not refer the matter in writing for institution of forfeiture proceedings by the City Attorney, the peace officer or Department shall comply with any notice to withhold issued to the City with respect to the Vehicle by the Franchise Tax Board. If no notice to withhold has been issued with respect to the Vehicle by the Franchise Tax Board, the peace officer or the Department shall return the Vehicle to the registered owner. Alternatively, the City may return the Vehicle to the registered lienholder upon the lienholder's filing of a hold harmless agreement on behalf of the City. The hold harmless agreement shall be acceptable to the Department and the City Attorney.

**10.05.070      Forfeiture of Vehicle; Procedures.**

(A) Except as provided in subsection (H) of this section, or Section **10.05.120**, if the City Attorney determines that the factual circumstances warrant that a Vehicle described in Section **10.05.020** subject to forfeiture, and are not automatically made forfeitable by another provision of this chapter, the City Attorney shall file a petition for forfeiture with the Superior Court of San Bernardino County.

(B) A petition for forfeiture under this subdivision shall be filed as soon as practicable, but in any case within one year of the seizure of the Vehicle which is subject to forfeiture.

(C) Physical seizure of the Vehicle shall not be necessary in order to have the Vehicle alleged to be forfeitable in a petition pursuant to this section. The City Attorney may seek protective orders for any such Vehicle.

(D) The City Attorney shall cause notice of the seizure and of the intended forfeiture proceedings, as well as a notice stating that any interested party may file a verified claim with the Superior Court of San Bernardino County, to be served by personal delivery or by registered mail upon any person who has an interest in the Vehicle. Whenever a notice is delivered pursuant to this section, it shall be accompanied by a claim form as described in Section **10.05.090**, as well as directions for the filing and service of a claim. Notice shall also be published once in a newspaper of general circulation in San Bernardino County.

(E) An investigation shall be made by the Department as to any claimant to the Vehicle whose right, title, interest, or lien is of record in the Department of Motor Vehicles or appropriate federal agency. If the Department finds that a person, other than the registered owner, is the legal owner of the Vehicle, and such ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the Vehicle, it shall forthwith send a notice to the legal owner at his or her address appearing on the records of the Department of Motor Vehicles or appropriate federal agency.

(F) All notices shall set forth the time within which a claim of interest in the Vehicle seized or that is subject to forfeiture is required to be filed pursuant to Section **10.05.090**.

(G) The City Attorney may, pursuant to this Section, order the forfeiture of the Vehicle seized pursuant to this chapter. The City Attorney shall provide notice of the proceedings under this subsection, including the following information:

- (1) A description of the Vehicle;
- (2) The date and place of seizure;
- (3) The violation of law alleged with respect to forfeiture of the Vehicle;
- (4) The instructions for filing and serving a claim with the City Attorney pursuant to **10.05.090** and time limits for filing a claim.

(H) If no claims are timely filed, the City Attorney shall prepare a written declaration of forfeiture of the Vehicle to the City and dispose of the Vehicle in accordance with this chapter. A written declaration of forfeiture signed by the City Attorney under this section shall be deemed to provide good and sufficient title to the forfeited Vehicle. The City Attorney ordering forfeiture pursuant to this section shall provide a copy of the declaration of forfeiture to any person who received notice of the forfeiture proceedings.

(I) If a claim is timely filed within fifteen (15) days, then the City Attorney shall file a petition for forfeiture pursuant to this section within thirty (30) days of receipt of the claim.

**10.05.080     Innocent Parties; Return of Vehicle.**

Notwithstanding the provisions of this chapter, the Department shall return a seized Vehicle upon the filing of a timely claim pursuant to Section **10.05.090** and upon a showing by the claimant that:

(A) The Vehicle is owned by two (2) or more persons and there is a community property interest in the Vehicle by a person other than the person who used or maintained the Vehicle while committing any nuisance described in Section **10.05.020**, and the Vehicle is the sole Vehicle available to the person's immediate family; or

(B) The Vehicle is owned by the employer of the person who used or maintained the Vehicle while committing any nuisance described in Section **10.05.020**; or

(C) The Vehicle is owed by a rental car agency with a duly executed contract with the person who used or maintained the Vehicle while committing any nuisance described in Section **10.05.02**; or

(D) The Vehicle was reported stolen to a law enforcement agency by the registered owner prior to the date and time of the commission of any nuisance described in Section **10.05.020**.

**10.05.090     Claim Procedures.**

(A) Any person claiming an interest in the Vehicle seized pursuant to Section **10.05.02** must at any time within fifteen (15) days from the date of the notice of seizure, file with the Superior Court of San Bernardino County a claim, verified in accordance with Cal. Code of Civil Procedure § 446, stating his or her interest in the Vehicle. An endorsed copy of the claim shall be served by the claimant on the City Attorney within ten (10) days of the filing of the claim.

(B) Court proceedings shall be in accordance with the following:

(1) If a verified claim is filed, the forfeiture proceeding shall be set for a hearing on a day not less than thirty (30) days therefrom.

(2) The hearing shall be before the court.

(3) The provisions of Cal. Code of Civil Procedure shall apply to proceedings under this chapter unless otherwise inconsistent with the provisions or procedures set forth in this chapter. However, there shall be no joinder of actions or coordination of actions, except for forfeiture proceedings, or cross-complaints and the issues shall be limited strictly to questions related to this chapter.

**10.05.100     Forfeiture Hearing.**

With the respect to a Vehicle described in Section **10.05.020** for which forfeiture is sought and as to which forfeiture is contested, the City shall have the burden of proving by a preponderance of the evidence that the Vehicle was used as set forth in Section **10.05.020**. Trial shall be before the court. The presiding judge of the Superior Court shall assign actions brought pursuant to this chapter for trial.

**10.05.110     Forfeiture of Vehicles Determined to be Nuisances.**

Upon proof by a preponderance of the evidence that the Vehicle was used for any of the purposes set forth in Section **10.05.020**, the court shall declare the Vehicle a nuisance and order that the Vehicle be seized, if not previously seized and held by the Department, forfeited and sold and the proceeds distributed in accordance with this chapter.

**10.05.120     Alternative Settlement Procedures.**

Any person, or his or her servant, agent or employee who owns, leases, conducts, uses or maintains any Vehicle while committing any nuisance described in Section **10.05.020** and whose Vehicle has been seized in accordance with this chapter may request to execute a voluntary settlement agreement with the City for the return of the Vehicle. Such request shall be made in writing to the Department or the City Attorney. The minimum amount of the settlement agreement shall be sufficient to cover all of the City's reasonable administrative costs, including attorney's fees and personnel time for the seizure and forfeiture action. The actual amount shall be at the sole and absolute discretion of the City Attorney. The executed settlement agreement shall be accompanied by the appropriate settlement fee amount in the form of a money order, cash or cashier's check. All settlement funds shall be distributed as set forth in Section **10.10.130**, subdivisions (B) and (C).

**10.05.130     Sale of Vehicles.**

In all cases where a Vehicle is seized and forfeited to the City pursuant to this chapter, the Vehicle shall be sold, or if cash is paid as settlement in lieu of forfeiture of the Vehicle, and the proceeds of the sale or said cash shall be distributed and appropriated as follows:

- (A) To the bona fide or innocent purchaser, conditional sales vendor, mortgage or lien holder of the Vehicle, if any, up to the amount of his or her interest in the Vehicle, when the court or City Attorney declares the forfeiture and sale of the Vehicle and orders a distribution to that person.
- (B) To the City for all expenditures made or incurred by it in connection with the publication of the notices set forth in this chapter, and sale of the Vehicle, including expenditures for any necessary repairs, storage or transportation of any Vehicle seized under this chapter.
- (C) The remaining funds shall be distributed to the Department to cover the costs of implementing the program. Such funds shall be placed in a separate account titled "The Vehicle Forfeiture Account." The Vehicle Forfeiture Account shall be subject to appropriate accounting controls and financial audits for all deposits and expenditures.
- (D) All the funds distributed to the Department pursuant to division (C) of this section shall not supplant any funds that would, in the absence of this chapter, be made available to support the law enforcement and prosecutorial efforts of the Department.

**10.05.140      Nonexclusive Remedy.**

This chapter is not the exclusive regulation against or penalty for committing the nuisances described in this chapter. It supplements and is in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the City, the state or any other legal entity or agency having jurisdiction.

**SECTION II. - EFFECTIVE DATE, PUBLICATION**

This Ordinance shall become effective thirty (30) days after its passage and adoption. Within fifteen (15) days of the date of adoption of this Ordinance, the City Clerk shall post a copy of said Ordinance in places designated for such posting and shall certify to the same. The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published as required by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Glenn A. Freshour, Mayor

ATTEST:

\_\_\_\_\_  
Charlene L. Sherwood, City Clerk



## **STAFF REPORT**

**To:** City Council

**From:** City Manager

**Date:** 03232004

**Subject:** Ordinance for the asset seizure of vehicles illegally transporting waste for unpermitted disposal (dumping) on public or private lands in the City

**Recommendation:** Conduct 2nd reading & adopt Asset Seizure Ordinance

### **Discussion:**

At the Council's conducted a public hearing on this ordinance at its meeting of March 9<sup>th</sup> and passed it to 2<sup>nd</sup> reading. We have received no additional comments. The ordinance, should Council adopt it, will be effective 30 days after the adoption. Below is the staff report from the last meeting.

The City Council has adopted a new solid waste franchise, work is in progress to update the City's Waste Disposal Ordinance and volunteer groups are forming to pick up trash and refuse on streets throughout the City. These items should result in a cleaner and more beautiful community.

One perennial problem is the illegal dumping of trash. While the new franchise increases the frequency and capacity of curbside trash pickup and provides for twice yearly collections of large bulk items, dumping in the open lands within the City continues to irritate the citizens and residents of our community who expect the desert to remain scenic and uncluttered by refuse. Fines can be imposed for illegal dumping but the Council wants to create further disincentives for illegal dumping.

At Council direction staff and the City Attorney reviewed the legality of confiscating vehicles directly used in the transport of trash and refuse for disposal in conflict with City and State Law and reported on their findings to Council. Council directed staff to proceed. A draft ordinance has been prepared for the Council's consideration that will enable the seizure of the assets used to transport trash in violation of the Municipal Code.

The attached Ordinance amendment contains the purpose and intent, findings, authority and method of seizing such assets. On adoption it should serve as a deterrent and can become one more instrument for cleaning up the community.

**CITY COUNCIL RESOLUTION NO. 04-03**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, DIRECTING STAFF TO PLACE A SPECIAL ASSESSMENT AGAINST **6810 EL SOL AVENUE** IN THE AMOUNT OF \$1,237.81, FOR THE OUTSTANDING COSTS OF ABATING JUNK AND RUBBISH.

The City Council of the City of Twentynine Palms hereby resolves as follows:

WHEREAS, the property was identified as a nuisance due to accumulated junk and rubbish; and

WHEREAS, a Notice to Abate was sent to the property owner(s) on December 3, 2003 to remove the junk and rubbish; and

WHEREAS, staff was unable to locate or contact the property owner(s), and the Notice was returned to sender; and

WHEREAS, the junk and rubbish was not removed from the property as directed; and

WHEREAS, the City of Twentynine Palms abated the property with direct costs and fees of \$1,237.81; and

WHEREAS, pursuant to City Ordinance No. 156 and Municipal Code 19.92, costs of abatement charged to the property owner(s) are payable by said owner(s) of the premises, beneficiary of any trust deed concerning the premises, or any other party interested in the property; and

WHEREAS, on February 24, 2004, the City Council confirmed a cost of abatement of \$1,237.81; and

WHEREAS, on or about March 5, 2004, the City sent the property owner(s) a bill for the confirmed cost of the abatement, and notification that if the bill was not paid within the time specified, a hearing would occur on March 23, 2004, before the City Council to specifically authorize the recordation of a Special Assessment against the property in the amount of \$1,237.81; and

WHEREAS, the bill for the confirmed cost of abatement has not been paid; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Twentynine Palms hereby authorizes and directs the recordation of a Special Assessment against the property known as 6810 El Sol Avenue, APN 0616-321-08, in the amount of \$1,237.81; and

BE IT FURTHER RESOLVED that a Special Assessment shall be filed against the property with the County Auditor/Controller-Recorder.

BE IT FURTHER RESOLVED that the subject property described herein is located in the City of Twentynine Palms, County of San Bernardino, State of California.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to record with the San Bernardino County Recorder a Notice of Pendency placing interested parties of the subject property on notice of the Special Assessment.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to file with the Assessor and Tax Collector of San Bernardino County certified copies of this Resolution, and further the City Clerk shall record said Resolution with the San Bernardino County Recorder.

BE IT FURTHER RESOLVED that the City Clerk shall direct the San Bernardino County Assessor to enter the amount of the charge against the real property described in this Resolution on the current assessment rolls.

**PASSED, APPROVED AND ADOPTED ON THIS 23rd DAY OF MARCH, 2004.**

AYES: COUNCIL MEMBERS:  
NOES: COUNCIL MEMBERS:  
ABSENT: COUNCIL MEMBERS:

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Glenn Freshour, Mayor

ATTEST:

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Charlene L. Sherwood, City Clerk



## **STAFF REPORT**

**To:** City Council

**From:** City Manager

**Date:** 03232004

**Subject:** Resolution Adopting Public Arts Policy

**Recommendation:** Council: 1. adopt resolution adopting policy 2. direct staff to advertise for the applications for members of 5 person committee to be appointed by Council

**Discussion:** The Council does not have a policy in place to accept donations, long term loans, or to display art in City facilities or public spaces. This policy provides a means for the Council to accept donations, loans of art and establishes a committee of Twentynine Palms residents who would review art proposed to the City by donors and make recommendations to the Council regarding acceptance and the conditions of acceptance. The quality of the art, location, purpose would be analyzed by the Committee who would make findings a recommendation to the City Council as to the appropriateness of the art display. It would enable the City to have displays of paintings, sculptures etc in City Parks and public buildings.

The policy also provides means for the future disposal of art should it no longer be needed. The Committee would review the art and make a recommendation for its disposal. It would be returned to the owner or donor, or lacking a donor, would be 'surplused' by the Council and the City Manager directed to dispose of the work by sale or other means consistent with existing City policy regarding disposal of property.

Staff believes this policy can facilitate Twentynine Palms continuing development as an 'arts community.'



## STAFF REPORT

MARCH 23, 2004

**TO:** CITY COUNCIL AND CITY MANAGER

**FROM:** COMMUNITY SERVICES DIRECTOR

**SUBJECT:** APPROVAL OF LUCKIE PARK BALLFIELD RELIGHTING PROJECT

### **RECOMMENDATION**

The City Council approve the awarding of the Luckie Park Ballfield Relighting Project to R. B. Development, in the amount of \$69,200.00 in funds from Community Development Block Grant Funds Luckie Park Ballfield Relighting Project.

### **BACKGROUND**

The City Council in March of 2003 approved the allocation of \$66,900 in Community Development Block Grant Funds toward the Luckie Park Ballfield Relighting Project. The Luckie Park Ballfield Relighting Project entails the removal of the existing ballfield lights and replacing with new Musco Sports Cluster Lights on the south field, adding two additional 70' poles with 15 lights in the south out-field, along with the relamping of the north field.

The bid package for the Ballfield Relighting Project went out the first of March, with a mandatory job walk on March 9th, with the bid closing on March 15<sup>h</sup>. At the mandatory job walk, the City had seven companies represented, with three companies submitting bids. The lowest bid was from R. B. Development for \$123,800, Wonder Electric at \$170,724, and MEI Electric Inc. at \$193,000.

In the bidding process, the contractors were given instruction to bid the relighting of both fields, each with a subtotal, and the total being that awarded. Due to the cost projected for relighting the entire project, the contractors were told the priority of work would be the south field, then the north, along with some alternates bids for the north depending on bids. R. B. Development bid on the south field was for \$66,800, and the relamping of the north was \$2,400, for a total of \$69,200. The difference in cost of the project and available CDBG funds will come from the reallocation of other CDBG project funds as they are completed and closed out, and lastly General funds.

Therefore, Staff's recommendation to the City Council is to approve the awarding of the Luckie Park Ballfield Relighting Project to R. B. Development in the amount of \$69,200.00, and permit Staff to execute the essential documents.

*"We Create Community Through People, Parks, and Programs."*

City of Twentynine Palms  
Treasurer's Report  
January 31, 2004

Depository	Term	Matures	Interest Rate	Amount	Market Value	Percent of Total
Petty Cash	On Hand		N/A	\$520	\$520	0.01%
PFF Bank & Trust						
Checking account	Demand		0.95%	\$108,658	\$108,658	1.65%
Pacific Western						
Payroll Account	Demand		0.65%	\$249,804	\$249,804	3.80%
Local Agency Investment Fund	Demand		1.53%	\$5,879,653	\$5,879,653	89.38%
Total City Funds				\$6,238,635	\$6,238,635	94.83%
Funds Held in Trust:						
Employee deferred compensation	N/A		N/A	\$339,894	\$339,894	5.17%
Total Funds in the Treasurer's Custody				\$6,578,529	\$6,578,529	100.00%

# City of Twentynine Palms Public Arts Policy

## **POLICY**

The City of Twentynine Palms desires to enhance its identity as an artistic community. The City, through its Public Arts Program, will celebrate and expand its vital and rich artistic legacy.

## **OBJECTIVES**

The Public Art Policy is directed towards placing high quality permanent public art in the City.

## **GOALS**

The principal goals for displaying works of art on public property are:

- \* To enrich the public environment for both residents and visitors.
- \* To nurture, enhance, and encourage the community's participation in arts.
- \* To enable Twentynine Palms to enhance its identity as an arts community.
- \* To increase public access to promote an understanding and awareness of the arts.

## **POLICY PROCEDURES**

### **1. Public Arts Advisory Committee (PAAC)**

The PAAC is a five member committee of Twentynine Palms residents, appointed by the City Council, which shall select, review, and make recommendations on art to the City Council for approval. The committee will meet on an as needed basis.

### **2. Public Review Period**

Prior to the committee making a recommendation to the City Council for approval, there shall be a 10-day public review period. During the public review period, the work itself, or a copy, shall be available for inspection by the public. Public comments shall be forwarded to the committee.

### **3. Criteria**

The committee shall consider the following criteria when reviewing the works of art for recommendation to the City Council.

- A. The artistic or historical significance of the object in a Twentynine Palms context.
- B. The object's physical condition and whether it is of exhibition quality.
- C. Whether the City already owns sufficient or better examples of this type by a particular artist or style.
- D. Whether the City has the facilities necessary to safely and properly keep and care for the object.
- E. Signage for the artwork displayed on public property shall be limited to the artist's name, title and date of work, and a dedication. The name of the donor lender, or memoriam may be part of the installation.
- F. Appropriateness of the display location (working well within the scale and nature of the site).
- G. Whether, in judgment, the artwork is appropriate for display to the public.

### **4. City Responsibility**

In acquiring works of art, the City is governed by its responsibility to:

- A. Determine the best location and display methods for pieces of public art.
- B. Preserve, conserve and maintain the art.
- C. Make the objects in the collection known to the public.
- D. Ensure that the interest and values of the public, the artist, and the City are represented.

- E. Ensure that a legal instrument of conveyance, necessary waiver, and documents transferring title and ownership of the artwork and clearly defining the rights and responsibilities of all parties accompany all acquisitions.

**5. Acquisition Procedure**

- A. Acquisition is as the inclusion of works of art into the City's collection by purchase, gift, or loan.
- B. Any individuals requesting a particular work of art be considered through the Acquisitions Procedure must submit a written request. The rules of acquisition are as follows:
  - 1. The work, or a facsimile must be available at a committee meeting for examination.
  - 2. Members of the committee must make every attempt to inspect the actual/physical or image of the artwork being considered.
  - 3. The City and/or donor must have funds budgeted to cover all costs associated with the purchase, transportation, installation, and insurance of the artwork.
  - 4. The committee shall recommend and seek approval by a majority vote before forwarding to the City Council. The City Council will make the final determination.

***Acquisition by Loan:***

- 1. The lender will be responsible for entering into a loan agreement with the City.

***Acquisition by Purchase:***

Artwork purchased by the City shall become the exclusive property of the City; the City shall have all rights of reproduction, sale, or disposal.

***Acquisition by Gift or Donation:***

The donation of works of art from generous sources may be a major source of enrichment for the City.

**6. Art Fund**

Any donations or appropriations to a Public Art Fund will be maintained by the City of Twentynine Palms and included in the annual budget. At such a time when deemed appropriate by the Council, the Public Art Fund may receive allocations from the City for acquisitions, operating expenses, and other endeavors pertinent to public art.

**7. Disposal of Art**

Reviewed by committee for recommendation and 1) returned to artist or donor  
2) Disposed of by sale consistent with the City's policy for surplus and disposal.



## **STAFF REPORT**

**To:** City Council

**From:** City Manager

**Date:** 03232004

**Subject:** Resolution Adopting Public Arts Policy

**Recommendation:** Council: 1. adopt resolution adopting policy 2. direct staff to advertise for the applications for members of 5 person committee to be appointed by Council

**Discussion:** The Council does not have a policy in place to accept donations, long term loans, or to display art in City facilities or public spaces. This policy provides a means for the Council to accept donations, loans of art and establishes a committee of Twentynine Palms residents who would review art proposed to the City by donors and make recommendations to the Council regarding acceptance and the conditions of acceptance. The quality of the art, location, purpose would be analyzed by the Committee who would make findings a recommendation to the City Council as to the appropriateness of the art display. It would enable the City to have displays of paintings, sculptures etc in City Parks and public buildings.

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Staff believes this policy can facilitate Twentynine Palms continuing development as an 'arts community.'



## **STAFF REPORT**

**To:** City Council

**From:** City Manager

**Date:** 03232004

**Subject:** Appeal of Planning Commission Denial of Conditional Use Permit for Thomas Towing

**Recommendation:** Affirm Planning Commission findings & action; deny appeal

### **Discussion:**

At its meeting of March 9<sup>th</sup>, the City Council gave direction to the Planning Commission and Community Development Department to process the resubmitted application for the Conditional Use Permit for Thomas Towing and to do so without additional fee. This provides the applicant an open avenue to return to the Planning Commission without prejudice for Public Hearing on their Conditional Use Permit Application. They may now reapply and this laborious matter may be concluded shortly, simply and favorably as it should have been in the late summer months of last year.

In the interim, the applicants have appealed their initial denial by the Planning Commission, and staff has brought the matter before the City Council. The Planning Commission, receiving an incomplete application that did not contain information vital to their analysis of the project, was unable to make findings the proposed use was consistent with the General Plan and Municipal code. The Commission denied the application. In response to the appeal from Thomas Towing and on review of the attached staff reports from the Community Development Director and City Attorney, the Council will find the Planning Commission's action was appropriate, and hence staff has recommended that you affirm their action and deny the appeal.

This will conclude the matter that is before the Council.